CONTACTS

If you have questions regarding eligibility for EqualityCare benefits, please contact your local Department of Family Services Offices.

If you have questions regarding the Estate Recovery Program, please submit your questions in writing to:

Program Integrity Unit, Office of Healthcare Financing 6101 Yellowstone Rd., Suite 210 Cheyenne, WY 82002

Please be advised that although the law is outlined in this brochure, it does not contain all relevant information. You should consult your own attorney for advise concerning estate planning and/or Medicaid planning.



Wyoming Department of Health

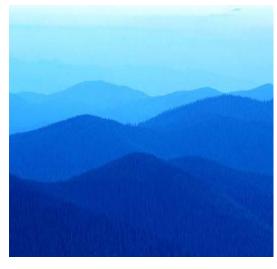
Office of Healthcare Financing 6101 Yellowstone Rd., Suite 210 Cheyenne, WY 82002 Phone (307) 777-7531 Fax (307) 777 6964

http://www.wdh.state.wy.us



Your Guide to Estate Recovery





A Publication of
Wyoming Department of Health
Office of Healthcare Financing

September 2007

WHAT IS ESTATE RECOVERY?

Estate Recovery helps the State of Wyoming generate funds to pay medical care costs, through the EqualityCare program, for the increasing number of people in need of care.

The federal government requires state Medicaid programs to seek repayment from the estates of certain deceased recipients who have received benefits from the EqualityCare Program. The state will pursue recovery of medical care costs paid by the EqualityCare program from the estate of an EqualityCare recipient, age 55 years or older, when he or she received medical assistance, or if the person was an inpatient in a medical institution when he or she received medical assistance.

WHAT IS AN ESTATE?

An EqualityCare recipient's estate includes all assets owned by the recipient at the time of death, including any savings or checking accounts (whether solely-owned, joint, or payable on death to a beneficiary), stocks, savings bonds, personal property, and real estate, including such assets transferred to a survivor, heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship life estate, living trust

RECOVERY PROCESS

or other arrangement. Any assets that become part of the estate after the death of the recipient are also subject to the Estate Recovery Program, including inheritances and proceeds from life insurance policies, annuities, or death benefits if those proceeds are payable to the estate rather than a living beneficiary.

HOW DOES ESTATE RECOVERY WORK?

At the time of an EqualityCare recipient's death the state seeks repayment for benefits paid by the EqualityCare program by filing a claim against the deceased recipient's estate. EqualityCare benefits include home and community based services, nursing home services, inpatient hospital services, and other services covered by the program. If the recipient's estate includes a home, the state will also file a lien on the home.

By filing the claim the state becomes a creditor in probate court. The state will work with the estate's attorney to insure that the property passes to the heirs either through probate or summary distribution subject to the state's claim.

If the value of an EqualityCare recipient's estate is less than the statutory probate amount, or no probate is filed, the Department will



RECOVERY PROCESS, CONTINUED

record a lien against the property. The lien is the amount of EqualityCare payments made on behalf of the person and/or persons receiving care. If a lien exists, the property holder must first pay off the lien before title to the property can be sold or transferred. The lien limits the ability to transfer clear title of the property until the lien is released by the Department.

ARE THERE TIMES WHEN ESTATE RECOVERY DOES NOT TAKE EFFECT AFTER THE RECIPIENT'S DEATH?

Yes. The state cannot begin recovery efforts during the life of a surviving spouse, or while a surviving child is under age 21, or blind or disabled. This means, for example, that the state will not place an estate recovery lien against a home or other real property in a deceased recipient's estate while the recipient's spouse is living or while there is a child of the recipient who is under 21 or blind or disabled.

OTHER RECOVERY

Wyoming Statute section 42-4-207 also allows the Department to place a lien on the home of a recipient, in the amount of

benefits paid on their behalf, when the recipient has been admitted to a medical care facility or nursing home and it has been determined by notice and opportunity for a hearing that the recipient is not likely to return home.

BONA FIDE EFFORT TO SELL

If a recipient determines that it is necessary or they choose to sell their home, they will continue to receive EqualityCare benefits, if they enter into an agreement with the Department under the following circumstances:

- 1. The recipient must have been on the EqualityCare program for at least six (6) months;
- 2. They must provide a fair market analysis, deed to the property and/or power of attorney notice;
- 3. They will enter into a Stipulation and Consent to Placement of Lien with the Department;
- 4. The property is actively on the market for sale;
- 5. The sale price of the property is not less than eighty percent (80%) of its fair market value; and
- 6. The net proceeds of the sale are paid to the Department to the extent that Medicaid benefits were paid on their behalf.

TRANSFER OF PROPERTY

If property is transferred less than 60 months prior to application for eligibility (60 months if the recipient has an established trust) a person may be denied initial eligibility for a period of time determined by the value of the assets that were transferred.

If exempt assets (for example, the home) of a recipient are sold after eligibility has been determined, the recipient may become ineligible for benefits. The way to avoid ineligibility is to enter into a Bona Fide Effort to Sell Agreement with the Department.

ESTATE RECOVERY EXEMPTIONS

- 1. If there is a surviving spouse living in the home, the Department will not seek recovery as long as the spouse is living. Upon death of the spouse, The Department will seek recovery from the estate, specifically addressing the deceased recipient's interest, regardless of whether or not the surviving spouse was a Medicaid recipient.
- 2. If a recipient, who is single or the surviving spouse of a married couple, is survived by a child who is under the age of twenty-one (21) or who is blind or totally disabled.
- 3. If a recipient is survived by a sibling, who has an equity interest in the home and was residing in the home for at least one (1) year immediately before the

date of the recipient's admission to the medical institution.

4. **Medicaid Rules, Chapter 35** allows for an undue hardship waiver. If recovery from an estate would create an undue hardship, the Department may waive a portion or all of its claim.

DELAYED ESTATE RECOVERY

As long as the following individuals reside in the home estate recovery is delayed until they leave or sell the home.

- 1. If a recipient who was single or the surviving spouse of a married couple is survived by a brother or sister who resided in the recipient's home at least one year prior to their admittance to a medical institution.
- 2. If there is a child of the recipient who resided with the recipient for at least two years before they entered a medical care facility and provided care to the recipient.

Please see final page of this brochure for contact information regarding Equality Care eligibility and the Estate Recovery Program.